

REMEDICATION AND REDEVELOPMENT (RR) NEWS FROM WISCONSIN DNR
January 24, 2002

NEW GEOGRAPHIC ASSIGNMENTS IN SER

Southeast Region (SER) has created new geographic assignments for DNR project managers at contaminated site cleanups. This should help responsible parties understand who to contact in SER with site-specific questions. The staff assignments for Sheboygan, Washington, Ozaukee, Waukesha, Milwaukee, Walworth, Racine and Kenosha Counties are on the RR web site under the "Contact Us" button. Please use the "county contacts" link.

http://www.dnr.state.wi.us/org/aw/rr/technical/lists/contact_rr.htm

FEDERAL BROWNFIELDS LEGISLATION ENACTED

President Bush has signed the federal Brownfields Reform and Small Business Liability Relief Act. This measure is expected to help revitalize aging urban areas, help curb suburban sprawl and clean up abandoned contaminated industrial sites. It provides federal liability reform, regulatory certainty and cleanup dollars. EPA Administrator Christie Whitman says it gives prospective redevelopers assurances that the federal government will not come after them for past pollution at the redevelopment site. The brownfields reform is aimed at protecting innocent parties such as the owners of property adjacent to contaminated sites, prospective site purchasers, and landowners who did not contribute to the contamination of their property. The bill also provides additional assurances to the states that the federal government will not later override brownfields cleanup decisions under state programs. The bill provides \$200 million annually over the next five years to local governments, tribes, and states to clean and revitalize brownfields. Some of this funding will go towards federal grants for site assessment, site cleanup, and to create revolving loan funds. The bill also adds a small business liability exemption to the Superfund law. Under this bill, businesses would be shielded from the cost of a Superfund site clean up if they did not contribute a significant amount of non-hazardous waste to the site and did not add any hazardous wastes. Whitman says the legislation should reduce litigation by differentiating between large contributors of toxic waste and small businesses that disposed of only small amounts of waste or ordinary trash. The DNR is currently unclear how this law will be implemented and we will make additional information available as we learn more. For more information about this legislation please see these web sites.

<http://www.epa.gov/swerosps/bf/new.htm>

<http://www.brownfields.com>

NEW VPLE PECFA FACT SHEET AVAILABLE

A new fact sheet, "Clarification of Procedures for Parties Seeking the Voluntary Party Liability Exemption (VPLE) for Petroleum Contaminated Sites", RR-677 is available on the RR web site at <http://www.dnr.state.wi.us/org/aw/rr/archives/pubs/RR677.pdf>. This fact sheet is meant to assist people seeking a VPLE for sites with contamination from aboveground and underground petroleum storage tanks while using the Petroleum Environmental Cleanup Fund Act (PECFA) to help pay for the cleanup. If you have questions, please contact Michael Prager at DNR (608-261-4927) or pragem@dnr.state.wi.us, and Jennifer Skinner at Commerce (414-220-5373) or jkskinner@commerce.state.wi.us. You can also call the RR

Information Line at 608-264-6020, or 800-367-6076 for long distance calls originating in Wisconsin and ask for Publication RR-677.

SLOW START FOR GROUNDWATER GIS REGISTRY

On November 1, 2001 new closure procedures in NR 726 allowed sites with groundwater enforcement standard (ES) exceedences to be closed by listing the site on the GIS Registry of Closed Remediation Sites, rather than by recording groundwater use restrictions with the deed. Over 500 responsible parties (RPs) had obtained conditional case closure prior to November 1, 2001. DNR expected that most of these RPs with conditional closures related to groundwater contamination would move quickly to obtain final closure after November 1. However, by mid January only about 35 sites had submitted the necessary information and fee to obtain final closure by being added to the GIS Registry. Most of the 500 sites remain conditional closures. For newer sites, where the RP's first case closure request is submitted after November 1, 2001, RPs and consultants should not wait for DNR to issue a conditional closure letter. DNR no longer issues conditional closures for these sites. When requesting case closure for sites with residual groundwater contamination above the ES, the case closure request must include the relevant information for all properties where natural attenuation is expected to bring groundwater contamination within standards over time. The information needed for the GIS Registry is included on the "Case Summary and Close Out Form", form 4400-202.

MORE IMPLEMENTATION QUESTIONS FOR THE GIS REGISTRY

1. How does the \$250 GIS registry fee apply to multiple discharges on one property? Each discharge is a separate site (or incident) that may be investigated and remediated independently. Each contaminated site will have a separate entry on the GIS registry with separate site maps, and thus a separate fee applies even when the contaminated sites are on the same property. For example, if a plume extended from a source property onto a neighboring property, and that neighboring property was already in the registry due to a different discharge, a new GIS entry would be made for the second plume that shows both the source property and the neighboring property.
2. If the only location of groundwater enforcement standard exceedences that are outside of the source property is on a right-of-way, must the right-of-way be placed on the GIS registry? Yes. NR 726.05(2)(b)4 states that each property that is affected will appear on the registry.
3. How are rights-of-way documented on the registry? Deeds and legal descriptions for rights-of-way (e.g. railroads) may not be very useful because they show a very long and narrow area. For plumes in these areas, the RP should submit a map that shows both the source property and the portion of the right-of-way where groundwater contamination has migrated. Include a letter from the railroad (on letterhead paper) that refers to an attached copy of the map, and states that the railroad owns the right-of-way shown on the map.
4. If the responsible party (RP) does not own the source property, how are the letters to affected neighboring property owners sent? The RP must still send letters to all affected property owners, regardless of whether the RP owns the source property. When the RP does not own the source property, he or she must also send a modified letter to the current owner of the source property.
5. What if no isoconcentration maps or cross-sections are available from the site investigation? In this case, be sure to include the most recent maps showing groundwater flow and the extent of contamination.

These maps are already required by NR 716, and by the case closure request form (section B, nos. 8 & 9). These maps are vital to making the GIS Registry functional for system users.

NORTHEAST REGION STAFF TALK TO REALTORS

On January 16th RR Program staff from Northeast Region (NER) discussed remediation and redevelopment of contaminated properties with the Realtors Association of Northeast Wisconsin. Commercial realtors who attended heard about redevelopment options and assistance provided by the RR Program, and had an opportunity to get answers to their questions about liability clarifications, liability exemptions and transfer of liability exemptions when properties change ownership. This was part of a series of presentations the Realtors Association of Northeast Wisconsin is undertaking concerning reuse of commercial properties and "how things work".

LOCAL GOVERNMENT ISSUES LISTSERVE

The Local Government Environmental Assistance Network (LGEAN) is managed and operated by the International City/County Management Association. The network manages a web site at <http://www.lgean.org/>. In addition, LGEAN operates its own email subscription service with updates on the latest environmental information of concern to local governments, and alerts readers about time sensitive issues. To subscribe to the LGEAN listserve, go to the LGEAN web address above and click on "Update Service".

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